

NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND MAY NOT BE CITED
EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
See Ariz. R. Supreme Court 111(c); ARCAP 28(c);
Ariz. R. Crim. P. 31.24

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE



DIVISION ONE
FILED: 06/07/2011
RUTH A. WILLINGHAM,
CLERK
BY: DLL

STATE OF ARIZONA,) 1 CA-CR 10-0451
)
Appellee,) DEPARTMENT A
)
v.) **MEMORANDUM DECISION**
) (Not for Publication -
CRAIG CLAY THORNTON,) Rule 111, Rules of the
) Arizona Supreme Court)
Appellant.)
)
_____)

Appeal from the Superior Court in Maricopa County

Cause No. CR2009-115945-004DT

The Honorable Paul J. McMurdie, Judge

AFFIRMED

Thomas C. Horne, Attorney General Phoenix
By Kent E. Cattani, Chief Counsel,
Criminal Appeals/Capital Litigation Section
Attorneys for Appellee

James J. Haas, Maricopa County Public Defender Phoenix
By Spencer D. Heffel, Deputy Public Defender
Attorneys for Appellant

T H O M P S O N, Judge

¶1 This case comes to us as an appeal under *Anders v. California*, 386 U.S. 738 (1967), and *State v. Leon*, 104 Ariz. 297, 451 P.2d 878 (1969). Counsel for Craig Clay Thornton (defendant) has advised us that, after searching the entire record, he has been unable to discover any arguable questions of law and has filed a brief requesting that this court conduct an *Anders* review of the record. Defendant has been afforded an opportunity to file a supplemental brief *in propria persona*, and he has not done so.

¶2 At defendant's request, however, his counsel asks this court to search the record for error with regard to six issues: (1) that the trial court erred by not severing defendant's case from that of his co-defendant, Braxton, for trial; (2) that evidence deriving primarily from his co-defendant, Hurd, was insufficient to support defendant's convictions; (3) that the trial court failed to instruct the jury that it must weigh evidence against each co-defendant individually and could acquit one while finding the other defendant guilty; (4) that the trial court erred by telling the jury, in response to a question during deliberation, that they could not change the charges brought against the defendants; (5) that defendant was denied an impartial trial because the jury was not a fair cross-section of the community, because no persons of his race were on the jury panel; and, (6) that defendant's alibi witnesses were not called

to testify, although subpoenaed by the State.

¶13 Our obligation is to review the entire record for reversible error. *State v. Clark*, 196 Ariz. 530, 537, ¶ 30, 2 P.3d 89, 96 (App. 1999). We view the facts in the light most favorable to sustaining the conviction and resolve all reasonable inferences against Thornton. *State v. Guerra*, 161 Ariz. 289, 293, 778 P.2d 1185, 1189 (1989). Finding no reversible error, we affirm.

¶14 In January 2009, Defendant and four accomplices unlawfully entered the victim's residence, intending to burglarize the residence, which defendant and accomplices believed contained \$200,000 cash and a large quantity of marijuana. Defendant and another accomplice were armed. When defendant and accomplices entered the home, the victim stood up from the couch and said, "Don't hurt me. You can have everything, don't hurt me." Defendant and the other armed accomplice both shot at the victim. Defendant and accomplices then fled the residence, taking nothing. The victim sustained multiple gunshot wounds, which were determined by the medical examiner to have caused his death.

¶15 Defendant was charged with one count of first degree murder, a class 1 dangerous felony, one count of attempted armed robbery, a class 3 dangerous felony, and one count of burglary in the first degree, a class 2 dangerous felony. A jury

convicted defendant of all counts. The trial court sentenced defendant to a life sentence in prison with the possibility of parole after twenty-five years for count one, a presumptive sentence of seven-and-a-half years in prison for count two, and a presumptive sentence of ten-and-a-half years in prison for count three, with all sentences to be served concurrently. Defendant received 447 days of presentence incarceration credit.

¶6 We have read and considered counsel's brief and have searched the entire record for reversible error. See *Leon*, 104 Ariz. at 300, 451 P.2d at 881. We find no reversible error pertaining to defendant's alleged claims of error or otherwise. All of the proceedings were conducted in compliance with the Arizona Rules of Criminal Procedure. So far as the record reveals, defendant was adequately represented by counsel at all stages of the proceedings, and the sentence imposed was within the statutory limits. Pursuant to *State v. Shattuck*, 140 Ariz. 582, 584-85, 684 P.2d 154, 156-57 (1984), defendant's counsel's obligations in this appeal are at an end. Defendant has thirty days from the date of this decision in which to proceed, if he so desires, with an *in propria persona* motion for reconsideration or petition for review.

¶7 We affirm the convictions and sentences.

/s/

JON W. THOMPSON, Judge

CONCURRING:

/s/

PHILIP HALL, Presiding Judge

/s/

LAWRENCE F. WINTHROP, Judge